

reflects mishandling of the facilities licensed by the Commission to serve the public trust by merely advancing monetary or in-kind compensation if they are caught engaging in the misconduct. Needless to say, this approach would emasculate the notion of a licensee as a public trustee and would provide very little incentive for licensees to abide by high operational standards and the Commission's rules.^{4/}

As Applicant's statement (Attachment D) avers, all the facts surrounding the alleged deceptive sponsorship and advertising of contests in derogation of the rights of Applicant's own listening public have yet to be established. Those facts, however, are within the control of the Applicant, the claimants and other members of the listening public who witnessed the alleged contests. Applicant should have the burden to establish that what its listeners have termed "fraud" was not an abuse of its license and the public trust. Unless Applicant is able to do so, the allegations contained in the attached complaints reflect a pattern of repeated inability to conduct contests in accordance with the Commission's rules and raise a serious question of whether the Applicant can be relied upon to


^{4/} It is also questionable whether Applicant's statement in answer to Question 5 of its renewal application (Form 303-S, Attachment E hereto) that it has complied with the public inspection file rules is accurate since the station building where the file should be kept is closed-off to the public as indicated in the sheriffs' statements attached to the complaints.

be truthful to the public in its handling of the station's day-to-day operations.

The Commission carefully considers issues involving character qualifications as they provide the only criteria by which a licensee's job as a public trustee can be measured, particularly in connection with conduct reflecting violations of the Commission's rules. Character Qualifications in Broadcast Licensing, 59 R.R.2d 801 (1986). See KOED, Inc., 64 R.R.2d 1344 (Rev. Bd. 1988). Truthfulness and reliability are required traits for a broadcaster. 59 R.R. 2d at 809. In apparent violation of Section 73.1216 of the Commission's rules, Applicant broadcast and advertised information about a contest it conducted which has been alleged to be untrue and deceptive. Petitioner submits that these allegations provide a substantial and material question of fact warranting a hearing on this issue under Section 309(e) of the Communications Act. See Beaumont Branch of the NAACP v. FCC, 65 R.R.2d 367, 370 (D.C. Cir. 1988); Citizens for Jazz on WRVR, Inc. v. FCC, 775 F.2d 392, 394-395 (D.C. Cir. 1985).

Respectfully submitted,

JOSE OAKS

By: 
Nora E. Garrote
PIPER & MARBURY
1200 Nineteenth, N.W.
Suite 700
Washington, D.C. 20036
(202) 861-3900

His Attorneys

Date: January 3, 1989

EXHIBIT NO. 6

DECLARATION OF
TANIA M. SANCHEZ

My name is Tania M. Sanchez. On July 25, 1990 I typed the attached letter and sent it, via Federal Express, to Mr. Robert B. Taylor, Stations WEXI(AM) and WTRU(FM), 500 North Delaware Boulevard, Jupiter, Florida 33458.

I declare under penalty of perjury that the matters stated above are true.

Tania M. Sanchez
Tania M. Sanchez

LEIBOWITZ & SPENCER

A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

MATTHEW L. LEIBOWITZ, P.A.
JOHN M. SPENCER, P.C.*
JOSEPH A. BELISLE
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OF COUNSEL
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July 25, 1990

VIA FEDERAL EXPRESS

Mr. Robert B. Taylor
Stations WTRU/WEXI
500 North Delaware Boulevard
Jupiter, Florida 33458

Dear Mr. Taylor:

It is two weeks since Chuck Reid and I visited the studio of Stations WTRU/WEXI seeking to examine the stations' public file. When no public file materials were available for Mr. Reid's and my examination, you agreed to copy the public file and send it to me within a week. I agreed to pay your photocopying and postage costs.

To date, you have sent me the following materials:

- 1) Letter dated April 6, 1989 from Robert B. Taylor to Donna R. Searcy transmitting Petition to Deny Jupiter Broadcasting Corp.'s application (FCC File No. BP-890103AB).
- 2) Petition to Deny Jupiter Broadcasting Corp.'s application (FCC File No. BP-890103AB).
- 3) Letter dated July 20, 1989 from Robert B. Taylor to Donna R. Searcy transmitting Petition to Deny Jupiter Broadcasting Corp.'s application (FCC File No. BPH-890103MD).
- 4) Petition to Deny Jupiter Broadcasting Corp.'s application FCC File No. BPH-890103MD).

Please send me copies of the remaining public file materials for Stations WTRU and WEXI immediately. A return pre-paid Federal Express envelope is enclosed for your convenience.

It is unreasonable to withhold copies of the stations' public file for two weeks, after agreeing to provide copies within one week. I need an accurate account of the documents that Stations

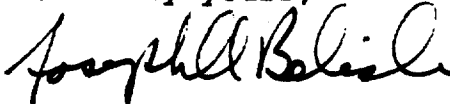
Mr. Robert B. Taylor
July 25, 1990
Page 2

WTRU and WEXI maintain for public inspection. These documents are important to my representation of Jupiter Broadcasting Corp. in the pending comparative renewal proceeding for Stations WTRU/WEXI.

Once again, I am enclosing a copy of the FCC's public file rule, Rule 73.3526, to assist you in making records available.

Thank you for your prompt attention to this request.

Sincerely yours,



Joseph A. Belisle
Counsel for
Jupiter Broadcast Corporation

JAB:tms

FEDERAL COMMUNICATIONS COMMISSION RULES - PART 73

(f) Affidavits filed pursuant to this section shall be executed by the applicant, permittee or licensee, if an individual; a partner having personal knowledge of the facts, if a corporation or association. (Revised 83-152, 4/7/83)

(g) Requests and affidavits which relate to an application which has not been designated for hearing shall bear the file number of such application. If the affiant is also an applicant, the affidavit shall also bear the file number of affiant's pending application(s). Requests and affidavits which relate to an application which is designated for hearing shall bear the file number of that application and the hearing docket number and will be acted on by the presiding officer. (Revised 83-152, 4/7/83)

(h) For the purposes of this section an application shall be deemed to be "pending" before the FCC and a party shall be considered to have the status of an "applicant" from the time an application is filed with the FCC until an order of the FCC granting or denying it is no longer subject to reconsideration by the FCC or to review by any court. (Revised 83-152, 4/7/83)

73.3526 LOCAL PUBLIC INSPECTION FILE OF COMMERCIAL STATIONS.

(a) RECORDS TO BE MAINTAINED.

Every applicant for a construction permit for a new station in the commercial broadcast services shall maintain for public inspection a file containing the material described in paragraph (a)(1) of this section. Every permittee or licensee of an AM, FM or TV station in the commercial broadcast services shall maintain for public inspection a file containing the material described in paragraphs (a)(1), (2), (3), (4), (5), (6), (7) and ~~(11)~~ (10) of this section. In addition, every permittee or licensee of a TV station shall maintain for public inspection a file containing the material described in paragraphs (a)(8) and (9) of this section; every permittee or licensee of an AM or FM station shall maintain for public inspection a file containing material described in paragraph (a)~~(10)~~ (9) of this section. The material to be contained in the file is as follows:

FEDERAL COMMUNICATIONS COMMISSION RULES - PART 73

- (1) A copy of every application tendered for filing, with respect to which local public notice is required to be given under the provisions of §73.3580 or §73.3594; and all exhibits, letters and other documents tendered for filing as part thereof; all amendments thereto, copies of all documents incorporated therein by reference, all correspondence between the FCC and the applicant pertaining to the application after it has been tendered for filing, and copies of Initial Decisions and Final Decisions in hearing cases pertaining thereto, which according to the provisions of §60.451 through 60.461 of the rules are open for public inspection at the offices of the FCC. Information incorporated by reference which is already in the local file need not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found in the file, and if there has been no change in the document since the date of filing and the applicant, after making the reference, so states. If petitions to deny are filed against the application, and have been duly served on the applicant, a statement that such a petition has been filed shall appear in the local file together with the name and address of the party filing the petition. The file shall also contain a copy of every written citizen agreement. For purposes of this section, a citizen agreement is a written agreement between a broadcast applicant, permittee, or licensee, and one or more citizens or citizen groups, entered for primarily noncommercial purposes. This definition includes those agreements that deal with goals or proposed practices directly or indirectly affecting station operation in the public interest, in areas such as - but not limited to - community ascertainment, programming, and employment. It excludes common commercial agreements such as advertising contracts; union, employment, and personal services contracts; network affiliation, syndication, program supply contracts and so on. However, the mere inclusion of commercial terms in a primarily noncommercial agreement - such as a provision for payment of fees for future services of the citizen-parties (see "Report and Order," Docket 19518, 57 FCC 2d 494 (1976)) - would not cause the agreement to be considered commercial for purposes of this section.

NOTE.— Applications tendered for filing on or before May 13, 1965, which are subsequently designated for hearing after May 13, 1965, with local notice being given pursuant to the provisions of §73.3594, and material related to such applications, need not be placed in the file required to be kept by this section. Applications tendered for filing after May 13, 1965, which contain major amendments to applications tendered for filing on or before May 13, 1965, with local notice of the amending application being given pursuant to the provisions of §73.3580, need not be placed in the file required to be kept by this section.
(Added 79-371, 7/9/79)

FEDERAL COMMUNICATIONS COMMISSION RULES - PART 73

- (2) A copy of every application tendered for filing by the licensee or permittee for such station which is not included in paragraph (a)(1) of this section and which involves changes in program service, which requests an extension of time in which to complete construction of a new station, or which requests consent to involuntary assignment or transfer, or to voluntary assignment or transfer not resulting in a substantial change in ownership or control and which may be applied for on FCC Form 316; and copies of all exhibits, letters, and other documents filed as part thereof, all amendments thereto, all correspondence between the FCC and the applicant pertaining to the application after it has been tendered for filing, and copies of all documents incorporated therein by reference, which according to the provisions of §§0.451 through 0.461 of the rules are open for public inspection at the offices of the FCC. Information incorporated by reference which is already in the local file need not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found in the file, and there has been no change in the document since the date of filing and the licensee, after making the reference, so states. If petitions to deny are filed against the application, and have been duly served on the applicant, a statement that such a petition has been filed shall appear in the local file together with the name and address of the party filing the petition.

NOTE.—The engineering section of the applications mentioned in paragraphs (a)(1) and (2) of this section, and material related to the engineering section, need not be kept in the file required to be maintained by this paragraph. If such engineering section contains service contour maps submitted with that section, copies of such maps and information (State, county, city, street address, or other identifying information showing main studio and transmitter location shall be kept in the file.

FEDERAL COMMUNICATIONS COMMISSION RULES - PART 73

- (3) A copy of every ownership report or supplemental ownership report filed by the licensee or permittee for such station after May 13, 1965, pursuant to the provisions of this part; and copies of all exhibits, letters, and other documents filed as part thereof, all amendments thereto, all correspondence between the permittee or licensee and the FCC pertaining to the reports after they have been filed, and all documents incorporated therein by reference, including contracts listed in such reports in accordance with the provisions of §73.3615(a)(4)(i) and which according to the provisions of §§0.451 through 0.461 of the rules are open for public inspection at the offices of the FCC. Information incorporated by reference which is already in the local file need not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found in the file, and if there has been no change in the document since the date of filing and the licensee or permittee, after making the reference, so states.
- (4) Such records as are required to be kept by §73.1940 concerning broadcasts by candidates for public office. (Added 79-371, 7-9-79)
- (5) A copy of every annual employment report filed by the licensee or permittee for such station pursuant to the provisions of this part; and copies of all exhibits, letters and other documents filed as part thereof, all amendments thereto, and all correspondence between the permittee or licensee and the FCC pertaining to reports after they have been filed and all documents incorporated therein by reference and which according to the provisions of §§0.451 through 0.461 of the rules are open for public inspection at the offices of the FCC.
- (6) The Public and Broadcasting - A Procedure Manual (see FCC 74-942, 39 FR 32298, September 5, 1974). (Added 79-371, 7-9-79)
- (7) Letters received from members of the public as are required to be retained by §73.1202. (Added 79-371, 7-9-79)

FEDERAL COMMUNICATIONS COMMISSION RULES - PART 73

EDITOR'S NOTE: Section 73.3526 paragraphs (a)(8) and (a)(9) have been so completely revised as of June 27, 1986 that the previous wording is not shown.

- (8) For commercial TV broadcast stations, every three months a list of programs that have provided the station's most significant treatment of community issues during the preceding three month period. The list for each calendar quarter is to be filed by the tenth day of the succeeding calendar quarter (e.g., January 10 for the quarter October-December, April 10 for the quarter January-March, etc.). The list shall include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment. The description of the programs should include, but is not limited to, the time, date, duration and title of each program in which the issue was treated.
- (9) For commercial AM and FM broadcast stations, every three months a list of programs that have provided the station's most significant treatment of community issues during the preceding three month period. The list for each calendar quarter is to be filed by the tenth of the succeeding calendar quarter (e.g., January 10 for the quarter October-December, April 10 for the quarter January-March, etc.). The list shall include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment. The description of the programs should include, but is not limited to, the time, date, duration and title of each program in which the issue was treated.

FEDERAL COMMUNICATIONS COMMISSION RULES - PART 73

- (10) Each applicant for renewal of license shall, within 7 days of the last day of broadcast of the local public notice of filing announcements required pursuant to §73.3580(h), place in the station's local public inspection file a statement certifying compliance with this requirement. The dates and times that the pre-filing and post-filing notices were broadcast and the text thereof shall be made part of the certifying statement. (Edit. Amdt. 4/3/85)

(b) RESPONSIBILITY IN CASE OF ASSIGNMENT OR TRANSFER.

(1) In cases involving applications for consent to assignment of broadcast station construction permits or licenses, with respect to which public notice is required to be given under the provisions of §73.3580 or §73.3594, the file mentioned in paragraph (a) of this section shall be maintained by the assignor. If the assignment is consented to by the FCC and consummated, the assignee shall maintain the file commencing with the date on which notice of the consummation of the assignment is filed with the FCC. The file maintained by the assignee shall cover the period both before and after the time when the notice of consummation of assignment was filed. The assignee is responsible for obtaining copies of the necessary documents from the assignor or from the FCC files. (Added 79-371, 7/9/79)

(2) In cases involving applications for consent to transfer of control of a permittee or licensee of a broadcast station, the file mentioned in paragraph (a) of this section shall be maintained by the permittee or licensee. (Added 79-371, 7/9/79)

(c) STATION TO WHICH RECORDS PERTAIN.

The file need contain only applications, ownership reports, and related material that concern the station for which the file is kept. Applicants, permittees, and licensees need not keep in the file copies of such applications, reports, and material which pertain to other stations with regard to which they may be applicants, permittees, or licensees, except to the extent that such information is reflected in the materials required to be kept under the provisions of this section. (Added 79-371, 7/9/79)

(d) LOCATION OF RECORDS.

The file shall be maintained at the main studio of the station, where such studio is located in the community to which the station is licensed, or where such studio is located outside of the community of license pursuant to authorization granted under §73.1125(a) of the rules prior to July 16, 1987, or at any accessible place (such as a public registry for documents or an attorney's office) in the community to which the station is or is proposed to be licensed. and The file shall be available for public inspection at any time during regular business hours.

FEDERAL COMMUNICATIONS COMMISSION RULES - PART 73

(e) PERIOD OF RETENTION.

The records specified in paragraph (a)(4) of this section shall be retained for periods specified in §73.1940 (2 years). The manual specified in paragraph (a)(6) of this section shall be retained indefinitely. The letters specified in paragraph (a)(7) of this section shall be retained for the period specified in §73.1202 (3 years). The "significant treatment of community issues" ~~programs~~ list specified in paragraphs (a)(8) and (9) of this section shall be retained for the term of license (5 and 7 years for TV and radio, respectively). The certification specified in paragraph (a)(10) of this section shall be retained for the period specified in §73.3580 (for as long as the application to which it refers). The records specified in paragraphs (a)(1), (2), (3), and (5) of this section shall be retained, as follows:

- (1) The applicant for a construction permit for a new station shall maintain such file so long as the application is pending before the FCC or any proceeding involving that application is pending before the courts. (If the application is granted, paragraph (e)(2) of this section shall apply.) (Added 79-371, 7/9/79)

FEDERAL COMMUNICATIONS COMMISSION RULES - PART 73

- (2) The permittee or licensee shall maintain such a file so long as an authorization to operate the station is outstanding, and shall permit public inspection of the material so long as it is retained by the licensee even though the request for inspection is made after the conclusion of the required retention period specified in this sub-paragraph. However, material which is voluntarily retained after the required retention time may be kept in a form and place convenient to the licensee, and shall be made available to the inquiring party, in good faith after written request, at a time and place convenient to both the party and the licensee.

Applications and related material placed in the file shall be retained for a period of 7 years from beginning with the date the application is that they are tendered for filing with the FCC, with two exceptions: First, engineering material pertaining to a former mode of operation need not be retained longer than 3 years after a station commences operation under a new or modified mode; and second, all of the material shall be retained for whatever longer period is necessary to comply with the following requirements: and ending with the expiration of one license term (five (5) years for television licensees or seven (7) years for radio licensees) or until the grant of the first renewal application of the television or radio broadcast license in question, whichever is later, with two exceptions:

- (i) Material shall be retained until final FCC action on the second renewal application following the application or other material in question: Engineering material pertaining to a former mode of operation need not be retained longer than 3 years after a station commences operation under a new or modified mode; and

FEDERAL COMMUNICATIONS COMMISSION RULES - PART 73

(ii) Material having a substantial bearing on a matter which is the subject of a claim against the licensee, or relating to an FCC investigation or a complaint to the FCC of which the licensee has been advised, shall be retained until the licensee is notified in writing that the material may be discarded, or, if the matter is a private one, the claim has been satisfied or is barred by statute of limitations. Where an application or related material incorporates by reference material in earlier applications and material concerning programming and related matters (Section IV and related material), the material so referred to shall be retained as long as the application referring to it. If a written agreement is not incorporated in an application tendered for filing with the FCC, the starting date of the retention period for that agreement is the date the agreement is executed. (Added 79-371, 7/9/79)

(f) Copies of any material required to be in the public file of any applicant for a construction permit, or permittee or licensee of any commercial TV or radio station shall be available for machine reproduction upon request made in person, provided the requesting party shall pay the reasonable cost of reproduction. Requests for machine copies shall be fulfilled at a location specified by the applicant, permittee or licensee, within a reasonable period of time which, in no event, shall be longer than seven days unless reproduction facilities are unavailable in the applicant's, permittee's, or licensee's community. The applicant, permittee or licensee is not required to honor requests made by mail, but may do so if it chooses.

[Next Page is No. 680.1]

EXHIBIT NO. 7

DECLARATION OF
TANIA M. SANCHEZ

My name is Tania M. Sanchez. On August 20, 1990 I typed the attached letter and sent it, via Federal Express, to Mr. Steve May, Stations WEXI(AM) and WTRU(FM), 500 North Delaware Boulevard, Jupiter, Florida 33458.

I declare under penalty of perjury that the matters stated above are true.

Tania M. Sanchez
Tania M. Sanchez

LEIBOWITZ & SPENCER

A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

MATTHEW L. LEIBOWITZ, P.A.
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TELECOPIER (202) 872-0604

* NOT ADMITTED TO
FLORIDA BAR

August 20, 1990

VIA FEDERAL EXPRESS

Mr. Steve May
Program Director
Stations WTRU/WEXI
500 North Delaware Boulevard
Jupiter, Florida 33458

Dear Mr. May:

I am informed by Charles Reid that he visited your stations' studio during normal business hours today and asked to see your stations' public files. Mr. Reid tells me that you had no public file materials for him to examine.

You will recall that Mr. Reid and I visited you at Stations WTRU/WEXI on July 12 of this year. At that time you had no public file materials to review. However, you called Mr. Taylor (in Michigan) and he agreed to photocopy the public file and mail it to me.

To date, I have received the following materials from WTRU/WEXI:

- 1) Letter dated April 6, 1989 from Robert B. Taylor to Donna R. Searcy transmitting Petition to Deny Jupiter Broadcasting Corp.'s application (FCC File No. BP-890103AB).
- 2) Petition to Deny Jupiter Broadcasting Corp.'s application (FCC File No. BP-890103AB).
- 3) Letter dated July 20, 1989 from Robert B. Taylor to Donna R. Searcy transmitting Petition to Deny Jupiter Broadcasting Corp.'s application (FCC File No. BPH-890103MD).
- 4) Petition to Deny Jupiter Broadcasting Corp.'s application FCC File No. BPH-890103MD).

Mr. Steve May
August 20, 1990
Page 2

Please send me copies of any remaining public file materials maintained for Stations WTRU and WEXI immediately. A return pre-paid Federal Express envelope is enclosed for your convenience.

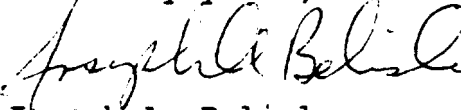
As I have previously informed Mr. Taylor, I require an accurate account of the documents that Station's WTRU and WEXI maintain for public inspection.

These documents are important to my representation of Jupiter Broadcasting Corp. in the pending comparative renewal proceeding for Stations WTRU/WEXI.

Once again, I am enclosing a copy of the FCC's public file rule, Rule 73.3526, to assist you in making records available.

Thank you for your prompt attention to this request.

Sincerely yours,



Joseph A. Belisle
Counsel for
Jupiter Broadcast Corporation

JAB:tms

Enclosures(2)

FEDERAL COMMUNICATIONS COMMISSION RULES - PART 73

(f) Affidavits filed pursuant to this section shall be executed by the applicant, permittee or licensee, if an individual; a partner having personal knowledge of the facts, if a corporation or association. (Revised 83-152, 4/7/83)

(g) Requests and affidavits which relate to an application which has not been designated for hearing shall bear the file number of such application. If the affiant is also an applicant, the affidavit shall also bear the file number of affiant's pending application(s). Requests and affidavits which relate to an application which is designated for hearing shall bear the file number of that application and the hearing docket number and will be acted on by the presiding officer. (Revised 83-152, 4/7/83)

(h) For the purposes of this section an application shall be deemed to be "pending" before the FCC and a party shall be considered to have the status of an "applicant" from the time an application is filed with the FCC until an order of the FCC granting or denying it is no longer subject to reconsideration by the FCC or to review by any court. (Revised 83-152, 4/7/83)

73.3526 LOCAL PUBLIC INSPECTION FILE OF COMMERCIAL STATIONS.

(a) RECORDS TO BE MAINTAINED.

Every applicant for a construction permit for a new station in the commercial broadcast services shall maintain for public inspection a file containing the material described in paragraph (a)(1) of this section. Every permittee or licensee of an AM, FM or TV station in the commercial broadcast services shall maintain for public inspection a file containing the material described in paragraphs (a)(1), (2), (3), (4), (5), (6), (7) and ~~(11)~~ (10) of this section. In addition, every permittee or licensee of a TV station shall maintain for public inspection a file containing the material described in paragraphs (a)(8) and ~~(9)~~ of this section; every permittee or licensee of an AM or FM station shall maintain for public inspection a file containing material described in paragraph ~~(a)(10)~~ (9) of this section. The material to be contained in the file is as follows:

FEDERAL COMMUNICATIONS COMMISSION RULES - PART 73

- (1) A copy of every application tendered for filing, with respect to which local public notice is required to be given under the provisions of §73.3580 or §73.3594, and all exhibits, letters and other documents tendered for filing as part thereof, all amendments thereto, copies of all documents incorporated therein by reference, all correspondence between the FCC and the applicant pertaining to the application after it has been tendered for filing, and copies of Initial Decisions and Final Decisions in hearing cases pertaining thereto, which according to the provisions of §§0.451 through 0.461 of the rules are open for public inspection at the offices of the FCC. Information incorporated by reference which is already in the local file need not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found in the file, and if there has been no change in the document since the date of filing and the applicant, after making the reference, so states. If petitions to deny are filed against the application, and have been duly served on the applicant, a statement that such a petition has been filed shall appear in the local file together with the name and address of the party filing the petition. The file shall also contain a copy of every written citizen agreement. For purposes of this section, a citizen agreement is a written agreement between a broadcast applicant, permittee, or licensee, and one or more citizens or citizen groups, entered for primarily noncommercial purposes. This definition includes those agreements that deal with goals or proposed practices directly or indirectly affecting station operation in the public interest, in areas such as - but not limited to - community ascertainment, programming, and employment. It excludes common commercial agreements such as advertising contracts; union, employment, and personal services contracts; network affiliation, syndication, program supply contracts and so on. However, the mere inclusion of commercial terms in a primarily noncommercial agreement - such as a provision for payment of fee for future services of the citizen-parties (see "Report and Order," Docket 19518, 57 FCC 2d 494 (1976)) - would not cause the agreement to be considered commercial for purposes of this section.

NOTE.— Applications tendered for filing on or before May 13, 1965, which are subsequently designated for hearing after May 13, 1965, with local notice being given pursuant to the provisions of §73.3594, and material related to such applications, need not be placed in the file required to be kept by this section. Applications tendered for filing after May 13, 1965, which contain major amendments to applications tendered for filing on or before May 13, 1965, with local notice of the amending application being given pursuant to the provisions of §73.3580, need not be placed in the file required to be kept by this section.
(Added 79-371, 7/9/79)

FEDERAL COMMUNICATIONS COMMISSION RULES - PART 73

- (2) A copy of every application tendered for filing by the licensee or permittee for such station which is not included in paragraph (a)(1) of this section and which involves changes in program service, which requests an extension of time in which to complete construction of a new station, or which requests consent to involuntary assignment or transfer, or to voluntary assignment or transfer not resulting in a substantial change in ownership or control and which may be applied for on FCC Form 316; and copies of all exhibits, letters, and other documents filed as part thereof, all amendments thereto, all correspondence between the FCC and the applicant pertaining to the application after it has been tendered for filing, and copies of all documents incorporated therein by reference, which according to the provisions of §§0.451 through 0.461 of the rules are open for public inspection at the offices of the FCC. Information incorporated by reference which is already in the local file need not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found in the file, and there has been no change in the document since the date of filing and the licensee, after making the reference, so states. If petitions to deny are filed against the application, and have been duly served on the applicant, a statement that such a petition has been filed shall appear in the local file together with the name and address of the party filing the petition.

NOTE.—The engineering section of the applications mentioned in paragraphs (a)(1) and (2) of this section, and material related to the engineering section, need not be kept in the file required to be maintained by this paragraph. If such engineering section contains service contour maps submitted with that section, copies of such maps and information (State, county, city, street address, or other identifying information showing main studio and transmitter location shall be kept in the file.

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- (3) A copy of every ownership report or supplemental ownership report filed by the licensee or permittee for such station after May 13, 1963, pursuant to the provisions of this part; and copies of all exhibits, letters, and other documents filed as part thereof, all amendments thereto, all correspondence between the permittee or licensee and the FCC pertaining to the reports after they have been filed, and all documents incorporated therein by reference, including contracts listed in such reports in accordance with the provisions of §73.3615(a)(4)(i) and which according to the provisions of §90.451 through 0.461 of the rules are open for public inspection at the offices of the FCC. Information incorporated by reference which is already in the local file need not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found in the file, and if there has been no change in the document since the date of filing and the licensee or permittee, after making the reference, so states.
- (4) Such records as are required to be kept by §73.1940 concerning broadcasts by candidates for public office. (Added 79-371. 7 9 79)
- (5) A copy of every annual employment report filed by the licensee or permittee for such station pursuant to the provisions of this part; and copies of all exhibits, letters and other documents filed as part thereof, all amendments thereto, and all correspondence between the permittee or licensee and the FCC pertaining to reports after they have been filed and all documents incorporated therein by reference and which according to the provisions of §90.451 through 0.461 of the rules are open for public inspection at the offices of the FCC.
- (6) The Public and Broadcasting - A Procedure Manual (see FCC 74-942, 39 FR 32298, September 5, 1974). (Added 79-371. 7 9 79)
- (7) Letters received from members of the public are required to be retained by §73.1202. (Added 79-371. 7 9 79)

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EDITOR'S NOTE: Section 73.3526 paragraphs (a)(8) and (a)(9) have been so completely revised as of June 27, 1986 that the previous wording is not shown.

- (8) For commercial TV broadcast stations, every three months a list of programs that have provided the station's most significant treatment of community issues during the preceding three month period. The list for each calendar quarter is to be filed by the tenth day of the succeeding calendar quarter (e.g., January 10 for the quarter October-December, April 10 for the quarter January-March, etc.). The list shall include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment. The description of the programs should include, but is not limited to, the time, date, duration and title of each program in which the issue was treated.
- (9) For commercial AM and FM broadcast stations, every three months a list of programs that have provided the station's most significant treatment of community issues during the preceding three month period. The list for each calendar quarter is to be filed by the tenth of the succeeding calendar quarter (e.g., January 10 for the quarter October-December, April 10 for the quarter January-March, etc.). The list shall include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment. The description of the programs should include, but is not limited to, the time, date, duration and title of each program in which the issue was treated.

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- (10) Each applicant for renewal of license shall, within 7 days of the last day of broadcast of the local public notice of filing announcements required pursuant to §73.3580(h), place in the station's local public inspection file a statement certifying compliance with this requirement. The dates and times that the pre-filing and post-filing notices were broadcast and the text thereof shall be made part of the certifying statement. (Edit. Amdt. 4/3/85)

(b) RESPONSIBILITY IN CASE OF ASSIGNMENT OR TRANSFER.

(1) In cases involving applications for consent to assignment of broadcast station construction permits or licenses, with respect to which public notice is required to be given under the provisions of §73.3580 or §73.3594, the file mentioned in paragraph (a) of this section shall be maintained by the assignor. If the assignment is consented to by the FCC and consummated, the assignee shall maintain the file commencing with the date on which notice of the consummation of the assignment is filed with the FCC. The file maintained by the assignee shall cover the period both before and after the time when the notice of consummation of assignment was filed. The assignee is responsible for obtaining copies of the necessary documents from the assignor or from the FCC files. (Added 79-371, 7/9/79)

(2) In cases involving applications for consent to transfer of control of a permittee or licensee of a broadcast station, the file mentioned in paragraph (a) of this section shall be maintained by the permittee or licensee. (Added 79-371, 7/9/79)

(c) STATION TO WHICH RECORDS PERTAIN.

The file need contain only applications, ownership reports, and related material that concern the station for which the file is kept. Applicants, permittees, and licensees need not keep in the file copies of such applications, reports, and material which pertain to other stations with regard to which they may be applicants, permittees, or licensees, except to the extent that such information is reflected in the materials required to be kept under the provisions of this section. (Added 79-371, 7/9/79)

(d) LOCATION OF RECORDS.

The file shall be maintained at the main studio of the station, where such studio is located in the community to which the station is licensed, or where such studio is located outside of the community of license pursuant to authorization granted under §73.1125(a) of the rules prior to July 16, 1987, or at any accessible place (such as a public registry for documents or an attorney's office) in the community to which the station is or is proposed to be licensed. The file shall be available for public inspection at any time during regular business hours.